

**Rules of**  
**Department of Agriculture**  
**Division 110—Office of the Director**  
**Chapter 1—Missouri Qualified Fuel Ethanol**  
**Producer Incentive Program**

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## Title 2—DEPARTMENT OF AGRICULTURE

### Division 110—Office of the Director Chapter 1—Missouri Qualified Fuel Ethanol Producer Incentive Program

#### 2 CSR 110-1.010 Description of General Organization; Definitions; Requirements of Eligibility, Licensing, Bonding, and Application for Grants; Procedures for Grant Disbursements; Record Keeping Requirements, and Verification Procedures for the Missouri Qualified Fuel Ethanol Producer Incentive Program

*PURPOSE: This rule describes the operation of the program; defines terms; establishes requirements for eligibility, licensing, bonding, and application for grants; describes procedures for grant disbursement; and establishes record keeping requirements and verification procedures.*

##### (1) General Organization.

(A) The director of the Department of Agriculture is authorized to administer the Missouri Qualified Fuel Ethanol Producer Incentive Fund and, subject to appropriations for this purpose, shall provide economic subsidies to Missouri qualified fuel ethanol producers (MQFEP). To obtain a grant from the fund, an MQFEP must be eligible, licensed, and bonded, must submit a formal grant application, and in all other ways must conform to the requirements of this rule.

(B) All submissions or requests for information regarding the Missouri Qualified Fuel Ethanol Producer Incentive Fund should be directed to the Missouri Department of Agriculture, Qualified Fuel Ethanol Producer Incentive Fund, P.O. Box 630, Jefferson City, MO 65102.

##### (2) Definitions.

(A) Fuel ethanol—One hundred ninety-eight (198) proof ethanol denatured in conformity with the United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and distilled in a facility whose principal (over fifty percent (50%)) feed stock is cereal grain or cereal grain by-products;

(B) Missouri qualified fuel ethanol producer (MQFEP)—Any producer of fuel ethanol whose principal place of business and facility for the fermentation and distillation of fuel ethanol is located within the state of Missouri and is at least fifty-one percent (51%) owned by agricultural producers actively engaged in agricultural production for commercial purposes, and which has made formal applica-

tion, posted a bond, and conformed to the requirements of this rule;

(C) Principal place of business—The state in which a producer's ethanol plants produce more fuel ethanol than is produced in any other state;

(D) Actively engaged in agricultural production for commercial purposes—Producing cereal grain or cereal grain by-products in quantities sufficient to meet their individual delivery obligations to the ethanol production facility;

(E) Qualified fuel ethanol—Fuel ethanol produced by a MQFEP;

(F) Missouri agricultural products—Cereal grain or cereal grain by-products produced in Missouri;

(G) Department—The Missouri Department of Agriculture; and

(H) Director—The director of the Missouri Department of Agriculture.

(3) Criteria for Classification as a Missouri Qualified Fuel Ethanol Producer. To be classified as a MQFEP, a producer's principal place of business and facility for the fermentation and distillation of fuel ethanol must be located within the state of Missouri and must be at least fifty-one percent (51%) owned by agricultural producers actively engaged in agricultural production for commercial purposes. In addition, the producer must—

(A) Be licensed to produce fuel ethanol by the department;

(B) Post a bond;

(C) Make formal application for monthly grants from the Missouri Qualified Fuel Ethanol Producer Incentive Fund; and

(D) Conform to all other requirements of this rule.

(4) Procedures for Obtaining a Missouri Qualified Fuel Ethanol Producer License.

(A) Any MQFEP may apply for an original license by requesting a license application form from the Missouri Department of Agriculture, Qualified Fuel Ethanol Producer Incentive Fund, P.O. Box 630, Jefferson City, MO 65102.

(B) The license application form must include:

1. The fuel ethanol producer's Bureau of Alcohol, Tobacco and Firearms Permit number;

2. The fuel ethanol producer's federal employer identification number or Social Security number;

3. If incorporated, a copy of the Certificate of Good Standing issued by the Missouri Secretary of State;

4. Complete name and address of the owner(s), or the names and addresses of the

partners if the MQFEP is a partnership or the names and addresses of the principal officers if the MQFEP is a corporation or limited liability company;

5. Certification by the MQFEP's board of directors that at least fifty-one percent (51%) of the owners produce cereal grain or cereal grain by-products in quantities sufficient to meet their individual delivery obligations to the ethanol production facility;

6. Diagram of the premises (location of the still, etc.);

7. Description of the stills, including their capacity;

8. The amount and source of the feedstocks to be used annually by the facility;

9. The maximum number of gallons of ethanol to be produced annually by the facility; and

10. The amount and source of funds invested in the facility.

(C) All original license applications must be acted upon by the department within ninety (90) days of receipt.

(D) The original license shall be issued effective from the date all required information has been received and approved and shall expire on the following June 30.

(E) Licenses shall be renewed annually, becoming effective July 1 and expiring June 30.

(F) To assure renewal effective July 1, renewal license applications must be submitted and received by the department by May 30.

##### (5) Bonding Requirements.

(A) To receive a monthly grant from the Missouri Qualified Fuel Ethanol Producer Incentive Fund, a MQFEP shall file with the department a surety bond executed and signed by the MQFEP as principal and issued by a responsible corporate surety licensed to execute surety bonds in the state of Missouri. The bond shall be in favor of the director of the Missouri Department of Agriculture for the benefit of all persons producing qualified fuel ethanol from Missouri agricultural products, their legal representatives, attorneys, or assigns, and shall be conditioned upon—

1. Verification of the actual number of gallons of qualified fuel ethanol produced from Missouri agricultural products for which the MQFEP has received a monthly grant; and

2. The MQFEP's compliance with section 142.028, RSMo, and the requirements of this rule.

(B) The bond shall have an effective date not later than the date application is made for the first monthly producer incentive grant.

(C) The bond shall remain effective until canceled. However, the bond may not be reduced or canceled by the named principal or surety unless the surety provides ninety (90) days written notice of cancellation sent by registered or certified mail, with return receipt to both the principal and to the Director of the Missouri Department of Agriculture, Qualified Fuel Ethanol Producer Incentive Fund, P.O. Box 630, Jefferson City, MO 65102. Notice of cancellation does not affect the liability accrued or which may accrue under such bond before the expiration of the ninety (90) days.

(D) The amount of the bond will be computed by multiplying the MQFEP's estimated maximum annual production of Missouri produced qualified fuel ethanol by twenty cents (20¢) per gallon for the first twelve and one-half (12.5) million gallons, plus five cents (5¢) per gallon for the next twelve and one-half (12.5) million gallons and then dividing by twelve (12).

(E) The department will monitor the MQFEP's estimated and actual ethanol production records. If the department determines the bond amount is insufficient to cover estimated monthly ethanol production, the department may, at its discretion, require the MQFEP to increase the amount of the bond.

#### (6) Grant Application Procedures.

(A) An MQFEP may apply for a producer incentive grant by requesting a monthly grant application form from the Missouri Department of Agriculture, Qualified Fuel Ethanol Producer Incentive Fund, P.O. Box 630, Jefferson City, MO 65102.

(B) To obtain a producer incentive grant for a particular month, a MQFEP must complete the prescribed grant application form.

(C) The grant application form must include the:

1. Complete name and address of the owner(s), or names and addresses of the partners if the MQFEP is a partnership, or the names and addresses of the principal officers if the MQFEP is a corporation or limited liability company;
2. Address and location of all fuel ethanol plants owned by the MQFEP. Each MQFEP must include all Missouri plants and plants outside Missouri;
3. Production capacity of each fuel ethanol plant;
4. Estimated number of employees needed to reach the production capacity of each fuel ethanol plant;
5. Number of bushels of Missouri agricultural products used by the MQFEP in the production of fuel ethanol during the preceding quarter;

6. Total number of employees and the number of Missouri citizens employed by the MQFEP during the preceding quarter;

7. Number of bushels of Missouri agricultural products to be used by the MQFEP in the production of fuel ethanol during the month for which the grant is applied;

8. Number of gallons of qualified fuel ethanol the MQFEP expects to manufacture during the month for which the grant is applied;

9. Estimated production of fuel ethanol the MQFEP expects to manufacture during the current fiscal year (July 1 through June 30);

10. A copy of the qualified fuel ethanol producer license; and

11. Name and address of the surety company, the bond number and the amount of the bond posted under this rule.

#### (7) Grant Disbursement Procedures.

(A) Annually, the department shall make available to MQFEPs all monies appropriated to the "Missouri Qualified Fuel Ethanol Producer Incentive Fund" by the general assembly and signed into law by the governor, less any governor's reserve and/or withholding.

(B) A MQFEP shall be eligible for a monthly grant from the Missouri Qualified Fuel Ethanol Producer Incentive Fund, except that a MQFEP shall be eligible for the grant for a total of sixty (60) months unless such producer during those sixty (60) months failed, due to a lack of appropriations, to receive the full amount from the fund for which they were eligible, in which case such producers shall continue to be eligible for up to twenty-four (24) additional months or until they have received the maximum amount of funding for which they were eligible during the original sixty (60)-month time period.

(C) The amount of each monthly grant is determined by calculating the estimated gallons of qualified fuel ethanol to be produced from Missouri agricultural products for the succeeding calendar month, as certified by the department, and multiplying such figure by the per gallon credit established in section 142.028, RSMo and this rule. Each MQFEP shall be eligible for a total grant in any fiscal year equal to twenty cents (20¢) per gallon for the first twelve and one-half (12.5) million gallons of qualified fuel ethanol produced from Missouri agricultural products in the fiscal year, plus five cents (5¢) per gallon for the next twelve and one-half (12.5) million gallons of qualified fuel ethanol produced from Missouri agricultural products in the fiscal year. All such qualified fuel ethanol produced by a MQFEP in excess of twenty-

five (25) million gallons shall not be applied to the computation of a grant.

(D) Should available monies be insufficient to pay all MQFEPs the maximum monthly grant allowed by law, available monies will be apportioned so that each MQFEP shall receive a share of monies proportionate to recent production levels of all MQFEPs.

(E) The department shall pay all grants for a particular month by the fifteenth day after receipt and approval of the grant application form.

(F) The amount of the monthly grant paid by the department shall not exceed the amount of the bond required to be posted by the MQFEP under this rule.

#### (8) Record Keeping Requirements and Verification Procedures.

(A) Within fifteen (15) days after the end of a month for which a producer incentive grant was received, the MQFEP must report actual production for that month. The report shall include:

1. The actual number of gallons of qualified fuel ethanol produced at each Missouri ethanol plant during the report month;
2. The actual number of gallons of fuel ethanol produced at each plant located outside Missouri during the report month; and
3. The actual quantity of Missouri agricultural products used at each Missouri ethanol plant to produce fuel ethanol during the report month.

(B) If actual production of qualified fuel ethanol during a particular month either exceeds or is less than that estimated by an MQFEP, the department shall adjust the subsequent monthly grant by paying the additional amount or subtracting the amount in deficiency to ensure the MQFEP receives the grant amount specified under this rule. If the MQFEP does not apply or qualify for a subsequent monthly grant within ninety (90) days of its previous grant application, the department may, at its discretion, adjust the amount of the bond returned to the MQFEP by paying the additional amount or subtracting the amount in deficiency to ensure the MQFEP receives the grant amount specified under this rule.

(C) Each MQFEP shall keep accurate purchase and production records and source documents for at least three (3) years. The records and source documents must be sufficient to verify the—

1. Actual monthly production, inventory, and disposition of fuel ethanol for each Missouri fuel ethanol plant; and
2. Actual monthly quantities of Missouri agricultural products purchased and used to

produce fuel ethanol at each Missouri fuel ethanol plant.

(D) The department is authorized to examine records, documents, books, premises, and products of the MQFEP to determine the validity of all information and reports submitted by the MQFEP and to determine if the MQFEP has complied with the provisions of section 142.028, RSMo, and this rule.

*AUTHORITY: section 142.028, RSMo Supp. 2002.\* Original rule filed June 14, 1995, effective Dec. 30, 1995. Amended: Filed June 13, 2000, effective Dec. 30, 2000. Emergency amendment filed Aug. 14, 2002, effective Aug. 28, 2002, expired Feb. 23, 2003. Amended: Filed Aug. 14, 2002, effective Feb. 28, 2003.*

*\*Original authority: 142.028, RSMo 1988, amended 1989, 1993, 1995, 2002.*